

FILED IN THE
U.S. DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

Sep 25, 2023

SEAN F. McAVOY, CLERK

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

ANDREW OSBORNE,

Petitioner,

v.

BCCD,

Respondent.

No. 4:23-cv-05104-RMP

**ORDER DISMISSING PETITION
WITHOUT PREJUDICE FOR
FAILURE TO COMPLY WITH
FILING FEE OR *IN FORMA*
PAUPERIS REQUIREMENTS**

On July 14, 2023, Petitioner Andrew Osborne, a pretrial detainee currently housed at the Benton County Jail, filed a *pro se* Petition for a Writ of Habeas Corpus Under 28 U.S.C. § 2241. ECF No. 1. Petitioner failed to pay the filing fee or provide the correct or completed application to proceed *in forma pauperis*.

By letter dated July 14, 2023, the District Court Clerk directed Petitioner to submit a completed Application to Proceed without Prepayment of Fees and Affidavit and provided him the correct form with which to do so. ECF No. 2. Specifically, the District Court Clerk directed Petitioner to have the “Certificate”

1 portion of the Application properly completed by an Authorized Officer of the
2 incarcerating facility. *Id.* In the alternative, the District Court Clerk informed
3 Petitioner that he could pay the \$5.00 filing fee. *Id.*

4 On August 16, 2023, this Court issued an Order to Comply with Filing Fee
5 or *In Forma Pauperis* Requirements. ECF No. 3. Once again, Petitioner was
6 instructed to either pay the \$5.00 filing fee or submit a correct and completed
7 Application to Proceed without Prepayment of Fees and Affidavit and was
8 provided the form with which to do so. *Id.* Petitioner was cautioned that failure
9 to do either by September 15, 2023, would be construed as his consent to the
10 dismissal of this action. *Id.* at 2. Petitioner has neither paid the filing fee nor
11 submitted a correct and completed application to proceed *in forma pauperis* as
12 directed.

13 Accordingly, **IT IS HEREBY ORDERED:**

- 14 **1.** The Petition, **ECF No. 1**, is **DISMISSED WITHOUT PREJUDICE**
15 for failure to comply with the filing fee or *in forma pauperis*
16 requirements set forth in Rule 3(a) of the Rules Governing Section 2254
17 Cases in the United States District Courts.
- 18 **2.** The District Court Clerk is directed to **ENTER JUDGMENT** and
19 **CLOSE** this file.
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1 **3.** The Court certifies that an appeal from this decision could not be taken
2 in good faith and there is no basis upon which to issue a certificate of
3 Appealability. *See* 28 U.S.C. §§ 1915(a)(3), 2253(c); Fed. R. App. P.
4 22(b).

5 **IT IS SO ORDERED.** The District Court Clerk is directed to enter this
6 Order and provide a copy to Petitioner.

7 **DATED** September 25, 2023September 2023

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10 *s/ Rosanna Malouf Peterson*
 ROSANNA MALOUF PETERSON
 Senior United States District Judge
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